

House Study Bill 276

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to property insurance, including establishment of
2 a mandatory plan to assure fair access to insurance
3 requirements, and providing for an effective date and
4 retroactive applicability.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1191DP 80
7 jj/sh/8

PAG LIN

1 1 Section 1. NEW SECTION. 515F.30 SHORT TITLE.
1 2 This division may be cited as the "Fair Access to Insurance
1 3 Requirements Plan Act", or the "FAIR Plan Act".
1 4 Sec. 2. NEW SECTION. 515F.31 PURPOSE.
1 5 The purposes of this division include all of the following:
1 6 1. To make basic property insurance available to qualified
1 7 applicants with the least possible administrative detail and
1 8 expense.
1 9 2. To establish a plan, an industry placement facility and
1 10 a joint reinsurance association for the equitable distribution
1 11 and placement of risks among insurers.
1 12 3. To utilize fully the voluntary insurance market as a
1 13 source of essential property insurance.
1 14 4. To encourage the delivery of basic property insurance
1 15 at the most reasonable cost possible, provided that insurance
1 16 pricing by the FAIR plan is actuarially self-supporting and
1 17 does not actively compete with insurance pricing in the
1 18 voluntary insurance market.
1 19 Sec. 3. NEW SECTION. 515F.32 DEFINITIONS.
1 20 1. "Basic property insurance" means insurance against
1 21 direct loss to property as defined in the standard fire policy
1 22 and extended coverage, vandalism, and malicious mischief
1 23 endorsements; homeowners insurance; and such other classes of
1 24 insurance as may be added to the FAIR plan by the
1 25 commissioner. "Basic property insurance" does not include any
1 26 of the following:
1 27 a. Automobile insurance.
1 28 b. Inland marine insurance.
1 29 2. "Insurer" includes all companies or associations
1 30 licensed to transact insurance business in this state under
1 31 chapters 515, 518, and 518A, and companies or associations
1 32 admitted or seeking to be admitted to do business in this
1 33 state under any of those chapters, notwithstanding any
1 34 provision of the Code to the contrary.
1 35 3. "Plan" means the FAIR plan to assure fair access to
2 1 insurance requirements established pursuant to section
2 2 515F.33.
2 3 Sec. 4. NEW SECTION. 515F.33 FAIR PLAN ESTABLISHED. The
2 4 FAIR plan to assure fair access to insurance requirements is
2 5 established. The plan shall operate subject to the provisions
2 6 and conditions of this division.
2 7 Sec. 5. NEW SECTION. 515F.34 MEMBERSHIP.
2 8 1. Eligibility for membership in the FAIR plan and its
2 9 underwriting association requires all of the following:
2 10 a. The insurer must be licensed to write property
2 11 insurance in this state.
2 12 b. The insurer is engaged in writing property insurance in
2 13 this state, including the property insurance components of
2 14 multiperil on a direct basis.
2 15 2. Each insurer that meets the eligibility requirements in
2 16 subsection 1 shall be required to do all of the following:
2 17 a. Automatically subscribe to the articles of agreement
2 18 for the FAIR plan and the underwriting association as a
2 19 prerequisite to authority to transact property insurance
2 20 business in this state.

2 21 b. Become and remain a member both of the FAIR plan and
2 22 the underwriting association.
2 23 c. Comply with the requirements of the FAIR plan and the
2 24 underwriting association as a condition of the insurer's
2 25 authority to transact property insurance business in this
2 26 state.

2 27 Sec. 6. NEW SECTION. 515F.35 STATUS OF PLAN.

2 28 1. The FAIR plan is not and shall not be deemed a
2 29 department, unit, agency, or instrumentality of the state.

2 30 2. All debts, claims, obligations, and liabilities
2 31 incurred by the FAIR plan shall be the debts, claims,
2 32 obligations, and liabilities of the FAIR plan only, and are
2 33 not the debts or pledges of credit of the state, or the
2 34 state's agencies, instrumentalities, officers, or employees.

2 35 3. The moneys of the FAIR plan are not part of the general
3 1 fund of the state, and the state shall not budget for or
3 2 provide general fund appropriations to the plan.

3 3 4. The records, reports, and communications of the FAIR
3 4 plan, the governing committee, the committees of the FAIR
3 5 plan, and their representatives, producers, and employees are
3 6 not public records.

3 7 Sec. 7. NEW SECTION. 515F.36 ADMINISTRATION.

3 8 1. A governing committee shall administer the FAIR plan,
3 9 subject to the supervision of the commissioner, and operated
3 10 by a manager appointed by the committee.

3 11 2. The committee shall consist of seven members, one of
3 12 whom shall be elected by the committee from each of the
3 13 following:

3 14 a. American insurance association.

3 15 b. Alliance of American insurers.

3 16 c. National association of independent insurers.

3 17 d. Iowa insurance institute.

3 18 e. Mutual insurance association of Iowa.

3 19 f. Independent insurance agents of Iowa.

3 20 g. All other insurers.

3 21 3. Not more than one insurer in a group under the same
3 22 management or ownership shall serve on the committee at the
3 23 same time.

3 24 4. The plan of operation and articles of association shall
3 25 make provision for an underwriting association having
3 26 authority on behalf of its members to cause to be issued
3 27 property insurance policies, to reinsure in whole or in part
3 28 any such policies, and to cede any such reinsurance. The plan
3 29 of operation and articles of association shall provide, among
3 30 other things, for the perils to be covered, limits of
3 31 coverage, geographical area of coverage, compensation and
3 32 commissions, assessments of members, the sharing of expenses,
3 33 income, and losses on an equitable basis, cumulative weighted
3 34 voting for the governing committee of the association, the
3 35 administration of the FAIR plan, and any other matter
4 1 necessary or convenient for the purpose of assuring fair
4 2 access to insurance requirements.

4 3 Sec. 8. NEW SECTION. 515F.37 RULES.

4 4 The commissioner shall adopt rules necessary to administer
4 5 this division.

4 6 Sec. 9. NEW SECTION. 515F.38 RETROACTIVE APPLICABILITY.

4 7 This division applies retroactively to October 7, 1968, to
4 8 validate action taken under the Iowa basic property insurance
4 9 inspection and placement program adopted by the commissioner
4 10 of insurance.

4 11 Sec. 10. Section 515F.3, unnumbered paragraph 2, Code
4 12 2003, is amended to read as follows:

4 13 This Except as otherwise provided in specific divisions of
4 14 this chapter, this chapter does not apply to:

4 15 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
4 16 immediate importance, takes effect upon enactment.

4 17 EXPLANATION

4 18 This bill adds a new division to Code chapter 515F
4 19 regarding casualty property insurance, called the "FAIR Plan
4 20 Act", pertaining to "Fair Access to Insurance Requirements".

4 21 The bill sets forth a short title for the new division, as
4 22 well as a section detailing the purpose, and another section
4 23 for definitions.

4 24 New Code section 515F.34 provides that insurers writing
4 25 property insurance business in Iowa will be required to become
4 26 members of the new plan.

4 27 New Code section 515F.35 provides that the plan is not an
4 28 instrumentality of the state, and that the moneys of the plan
4 29 are not part of and do not come from the general fund. The
4 30 documents of the plan are not public records. The plan is
4 31 administered by a committee of seven insurance

4 32 representatives, and operated by a manager. An underwriting
4 33 association for the FAIR plan may reinsure policies as
4 34 necessary. The commissioner is empowered to adopt necessary
4 35 rules to administer the division. The bill is effective
5 1 immediately, and the division is made retroactively applicable
5 2 to October 7, 1968, in order to validate action taken under
5 3 the Iowa basic property insurance inspection and placement
5 4 program adopted by the commissioner of insurance.
5 5 An amendment is also made to Code section 515F.3 to
5 6 coordinate language within Code chapter 515F.
5 7 LSB 1191DP 80
5 8 jj/sh/8.1